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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,338	10/12/2001	Santhana Krishnamachari	US 010526	9237
24737	7590	12/16/2004	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			LEE, Y YOUNG	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/976,338

Applicant(s)

KRISHNAMACHARI ET AL.

Examiner

Y. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-21 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Radha et al (6,292,512) for the same reasons as set forth in Section 5 of the last office action, dated 7/27/04.

Radha et al, in Figures 2 and 6-11, discloses a scalable video coding system that is the same system for transmitting and decoding encoded video signals as specified in claims 1-21 of the present invention, comprising a system for partitioning encoded video data into a plurality of streams (42, 51), a system for determining a priority for each of a plurality of streams of encoded video data 48; and a system for assigning a variable modulation rate 55 to each stream of encoded video data based on the determined priority 48.

With respect to claims 2-21, Radha et al also discloses streams determined as having a relatively high/low priority (BL/EL) are assigned a lower/higher modulation rate than streams determined as having a relatively low/high priority; a system that ensures that an average modulation rate substantially conforms to a predetermined target rate

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for the plurality of streams (Fig. 10); partitioning the encoded video data based on a criteria selected from the group consisting of distinctions between frame type (Fig. 2), header and non-header data (e.g. MPEG headers), base BL and enhancement layer EL streams present in a scalable coded video, and distinctions in video packets containing data corresponding to at least one macroblocks (MPEG-4); wherein the priority of each stream is determined based on an MPEG frame type, and wherein streams containing I frames are determined to have a relatively higher priority than streams containing P frames and B frames (Fig. 2); at least one macroblock is determined based on motion and texture information contained in the macroblock (e.g. MPEG-4 syntax); and assigning a relatively higher priority to MPEG header data (base layers) than non-header MPEG data (enhancement layers).

Response to Arguments

3. Applicant's arguments filed 10/1/04 have been fully considered but they are not persuasive. Applicant asserts on pages 8 and 9 of the Remarks that Radha fails to disclose determining a priority for the streams. However, Figure 6 of Radha illustrates that a priority is set for the base layer data by determining R_{BL} first. Secondly, enhancement layer data are assigned the remaining available bit rate ($R - R_{BL}$). Since the base layer is given priority in the encoding process, it is submitted that Radha meets the claimed limitation in its broadest reasonable sense.

Applicant also asserts on page 9 of the Remarks that Radha fails to disclose assigning a variable modulation rate based on the determined priority. However, element 55 of Radha discloses that the encoding rate of the base layer data is assigned

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R_{BL} , a variable value between R_{min} and R . Similarly, the encoding rate of the enhancement layer data is assigned $(R - R_{BL})$, that is, the remaining available bandwidth leftover from the base layer data. Therefore, it is submitted that the assignment for the enhancement layer is secondary to that of the base layer, which is given priority assignment.

Finally, applicant asserts on page 9 of the Remarks that Radha fails to disclose I and P frames processing. However, Figure 2 of Radha illustrates the concept of such frames in the MPEG standard, which inherently includes such data structure as I, P, motion, and header information.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Y. Lee whose telephone number is (703) 308-7584.

The examiner can normally be reached on (703) 308-7584.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (703) 305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Y. Lee
Primary Examiner
Art Unit 2613

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